

5-25-06

PTO/SB/17 (01-06)

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FREE TRANSMITTAL**  
for FY 2006**Complete If Known**

|                      |                                   |
|----------------------|-----------------------------------|
| Application Number   | 10/007,451 (Patent No. 6,977,246) |
| Filing Date          | November 6, 2001                  |
| First Named Inventor | William PENDERGAST, et al.        |
| Examiner Name        | James O. WILSON                   |
| Art Unit             | 1623                              |
| Attorney Docket No.  | 03678.0022.CNUS02                 |

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$65.00)

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 08-3038 Deposit Account Name: HOWREY LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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**FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |                |
| Utility          | 300         | 150                   | 500         | 250                   | 200              | 100                   |                |
| Design           | 200         | 100                   | 100         | 50                    | 130              | 65                    |                |
| Plant            | 200         | 100                   | 300         | 150                   | 160              | 80                    |                |
| Reissue          | 300         | 150                   | 500         | 250                   | 600              | 300                   |                |
| Provisional      | 200         | 100                   | 0           | 0                     | 0                | 0                     |                |

**2. EXCESS CLAIM FEES**

| Fee Description   | Small Entity                     |               |
|---|----------------------------------|---------------|
|   | Fee (\$)                         | Fee (\$)      |
| Each claim over 20 (including Reissues)                               | 50                               | 25            |
| Each independent claim over 3 (including Reissues)                    | 200                              | 100           |
| Multiple dependent claims   | 360                              | 180           |
| <b>Total Claims</b>   | <b>Multiple Dependent Claims</b> |               |
| - 20 or HP = _____ x _____ = _____                                    | Fee (\$)                         | Fee Paid (\$) |
| HP = highest number of total claims paid for, if greater than 20      |                                  |               |
| <b>Indep. Claims</b>  | <b>Multiple Dependent Claims</b> |               |
| - 3 or HP = _____ x _____ = _____                                     | Fee (\$)                         | Fee Paid (\$) |
| HP = highest number of independent claims paid for, if greater than 3 |                                  |               |

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

|                     |                     |   |                 |                      |
|---------------------|---------------------|---|-----------------|----------------------|
| <b>Total Sheets</b> | <b>Extra Sheets</b> | <b>Number of each additional 50 or fraction thereof</b> | <b>Fee (\$)</b> | <b>Fee Paid (\$)</b> |
| - 100 = _____       | /50= _____          | (round up to a whole number) x _____                    | = _____         |                      |

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal disclaimer under 37 CFR 1.20(d)

65.00

**SUBMITTED BY**

|                   |                      |   |                          |
|-------------------|----------------------|---|--------------------------|
| Signature         | <i>Viola T. Kung</i> | Registration No. 41,131<br>(Attorney/Agent) | Telephone (650) 798-3570 |
| Name (Print/Type) | Viola T. Kung        | Date May 23, 2006                           |                          |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
03678.0022.CNUS02

In re Application of: William PENDERGAST, et al.

Application No.: 10/007,451 (U.S. Pat. No. 6,977,246)

Filed: November 6, 2001

For: CERTAIN DINUCLEOTIDES AND THEIR USE AS MODULATORS OF MUCOCILIARY CLEARANCE AND  
CILIARY BEAT FREQUENCY

The owner\*, Inspire Pharmaceuticals, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 5,900,407; 6,887,858; 6,921,755; 6,696,425; 6,462,028; and 6,818,629 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 41,131

Signature

May 23, 2006

Date

Viola T. Kung

Typed or printed name

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01 FC:2014

65.00 DA

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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